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New York

President: Mr. Thomson ..... (Fiji)

The meeting was called to order at 10.10 a.m.

Tribute to the memory of His Highness Sheikh Khalifa bin Hamad Al-Thani, former Amir of the State of Qatar

The President: We were informed last week of the passing of His Highness Sheikh Khalifa bin Hamad Al-Thani, the former Amir of the State of Qatar. The former Amir was a visionary leader who oversaw his country's independence and led it to prosperity and the rapid development of its economy. This is a time of grief for the royal family and the Government and the people of Qatar. I would like to convey to them our deepest condolences and to invite the Assembly to join me in observing a minute of silence in honour of His Highness Sheikh Khalifa bin Hamad Al-Thani, the former Amir of the State of Qatar.

The members of the General Assembly observed a minute of silence.

Agenda item 72

Report of the International Criminal Court

Note by the Secretary-General (A/71/342)

Reports of the Secretary-General (A/71/346 and A/71/349)

The President: It is my pleasure to welcome Judge Silvia Alejandra Fernández de Gurmendi, President of the International Criminal Court, to the General Assembly.

It has been 18 years since countries from every region of our world came together in Rome. Bearing in mind the millions of children, women and men who have been victims of unimaginable atrocities that deeply shock the conscience of humankind, and recognizing that such grave crimes threaten the peace, security and well-being of the world, they resolved, for the sake of present and future generations, to establish the International Criminal Court, with jurisdiction over the most serious crimes of concern to the international community, in order to put an end to impunity for the perpetrators of such crimes and thereby to contribute to their prevention.

In the nearly two decades that have passed since then, conscience of the international community continues to be shocked by the atrocities being perpetrated against innocent victims every day. It is therefore imperative that we draw on the spirit that led to the establishment of the Court, in order to strengthen, not diminish, our resolve to end impunity for the perpetrators of those crimes. I particularly encourage States parties to continue to work to promote the effective functioning of the Court and the universality of the Rome Statute.

This is a time when we should reflect on the Court's important place in the international system in promoting the rule of law and protecting human rights. And we should remember that, whatever our status may be in relation to the Court, we are all united in the shared belief that some crimes are so serious that they call on our collective conscience to act to put an end to impunity for those who perpetrate them. Their victims deserve and demand nothing less from us all.

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It is now my honour to invite Judge Fernández de Gurmendi to take the floor.

Judge Fernández de Gurmendi (International Criminal Court): It is an honour to be here today to present the annual report of the International Criminal Court (ICC) (see A/71/342) to the General Assembly.

(*spoke in Spanish*)

I would like to take this opportunity to respectfully greet the Spanish-speaking delegations here before continuing my briefing in the two working languages of the Court, French and English.

(*spoke in English*)

This reporting period has been a very busy year for the ICC, with unprecedented judicial activity. A new chapter opened for the Court with its transition to its new, purpose-built permanent premises, and we were honoured to have Secretary-General Ban Ki-moon speak at the opening ceremony in April.

I would like to begin my briefing by expressing my deep gratitude to Mr. Ban for his unwavering, principled and strong support of the Court throughout his term as Secretary-General. I also greatly appreciate his dedicated service to the international community and his enormous efforts in furtherance of peace, justice, tolerance, the rule of law and the protection of human rights. I would also like to take this opportunity to warmly congratulate Mr António Guterres on his appointment as the next Secretary-General. The Court looks forward to working with him.

As always, the Court greatly appreciates the cooperation it receives from the United Nations. This cooperation ranges from logistical assistance in the field to administrative and personnel arrangements, judicial assistance and the provision of services such as those relating to security, satellite communications and the use of conference facilities. In accordance with its Relationship Agreement with the United Nations, the Court reimburses the Organization for the assistance it receives.

Earlier this year, the Court was pleased to conclude a memorandum of understanding with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, in line with previous memorandums concluded with other United Nations peacekeeping missions in order to facilitate modalities for cooperation. The memorandum of understanding provides for assistance for all parties and participants in the judicial proceedings.

The past year has been very eventful in terms of judicial developments at the ICC. Three judgements were issued since my last report (see A/70/PV.48). Two trials were held in their entirety, two are ongoing and another is set to start soon. Following convictions, reparations proceedings are under way in four cases.

In the situation in the Central African Republic, Mr. Jean-Pierre Bemba Gombo was convicted in the first instance for failure to punish or prevent crimes committed by his subordinates. He was sentenced to an 18-year term of imprisonment for rape as a war crime and a crime against humanity, to be served concurrently with a 16-year sentence in relation to murder as a war crime and a crime against humanity, and to the war crime of pillaging. The Trial Chamber stressed that the especially grave nature and consequences of sexual crimes, particularly against children, was acknowledged by the States parties in the Rome Statute. The Trial Chamber further found that the instances of rape were exceedingly grave with regard to both the cultural context and the lasting damage to the victims, their families and communities. Both the judgment on conviction and the sentence are currently being appealed before the Appeals Chamber. Reparations proceedings have begun.

The Court held its first trial in relation to the situation in Mali, which lasted only three days, after the accused admitted his guilt. Mr. Ahmad Al-Faqi Al-Mahdi, who used to be a prominent figure of a splinter group of Al-Qaida, pleaded guilty to the war crime of attacking protected objects, in relation to the destruction of 10 buildings of a religious and historical character in Timbuktu, Mali. He was sentenced to nine years of imprisonment, and that sentence has now become final since it was not appealed.

In rendering its sentence, the Trial Chamber held that crimes against property are generally of lesser gravity than crimes against persons. However, the crime for which Mr. Al-Mahdi was convicted was of significant gravity, taking into consideration the symbolic and emotional value of the buildings, their religious character and the discriminatory religious motive invoked for the destruction.

From September 2015 to April 2016, the Court held its first trial on charges of offences against the administration of justice in the *Bemba et al.* case. On

19 October, the Trial Chamber found the five accused guilty of various offences against the administration of justice, including corruptly influencing witnesses. Penalties will be pronounced at a subsequent date. The verdict is not yet final.

We have also commenced the first trial in the situation in Côte d'Ivoire, against Mr. Laurent Gbagbo and Mr. Charles Blé Goudé. The two accused are charged with the crimes against humanity of murder, rape, persecution and other inhuman acts allegedly committed during post-election violence between December 2010 and April 2011.

In the situation in Uganda, Pre-Trial Chamber II confirmed a total of 70 charges of war crimes and crimes against humanity against Mr. Dominic Ongwen of the Lord's Resistance Army, in relation to alleged acts of murder, rape, sexual slavery, torture, use of child soldiers and other crimes. The trial is set to start on 6 December. That is a significant development because more than 10 years have elapsed since arrest warrants were issued against Mr. Ongwen, Mr. Joseph Kony and others.

In another new development for the Court, for the first time we have sent convicted persons to serve their sentences in one of our States parties. Mr. Thomas Lubanga Dyilo and Mr. Germain Katanga both expressed preference to serve their sentences in their home country, the Democratic Republic of the Congo, and that was made possible through the conclusion of ad hoc agreements with that country for that purpose, for which we are grateful.

Mr. Katanga's sentence was concluded during the reporting period, after a panel of the Appeals Chamber decided to reduce it following a mandatory review after two thirds of the sentence were served. The judges concluded that there were several factors that favoured reducing the sentence, including Mr. Katanga's early and continuing willingness to cooperate with the Court in its investigations and prosecutions, the fact that he had repeatedly and publicly taken responsibility for the crimes for which he was convicted and his expression of regret for the harm caused to the victims by his actions.

On 27 January, Pre-Trial Chamber I granted the request of the Prosecutor to open an investigation into the situation in Georgia, in relation to crimes against humanity and war crimes allegedly committed between 1 July and 10 October 2008. The Chamber recalled that its decision had the purpose of ensuring judicial control over the Prosecutor's *proprio motu* power to open an investigation, in the absence of a referral by a State party or by the Security Council.

The Chamber's decision makes it clear that the authorization is not limited to any specific incidents or alleged crimes, but that it is precisely the purpose of the investigation to determine which crimes, if any, may be prosecuted. Any future prosecution of specific individuals would again be subject to judicial control of the Pre-Trial Chamber, both at the stage of issuing arrest warrants or summons and at the confirmation of charges.

The process that preceded the Pre-Trial Chamber's decision provided an early opportunity to give a voice to victims in the Court's proceedings. In accordance with the Rome Statute, the Chamber took into consideration representations on behalf of more than 6,000 victims in relation to the proposed investigation. The submission of these representations was facilitated through a field mission undertaken by victim-participation experts from the Registry of the Court.

The Court has continued its work in relation to its unique mandate to order reparations to victims following convictions in the *Lubanga* and *Katanga* cases, and it has initiated the reparations proceedings in the *Bemba* and *Al-Mahdi* cases. At the same time, the Trust Fund for Victims has continued activities under its assistance mandate, which is separate from the judicial proceedings before the Court.

Together with its locally based implementing partners, the Trust Fund has been assisting victims in northern Uganda and the Democratic Republic of the Congo. It is now also planning expansion of its assistance activities to four other situations before the Court, and the Board of Directors has approved an initial budget for this purpose. The Trust Fund for Victims plays a key role in implementing the principles of reparative justice enshrined in the Rome Statute, but to do so effectively, it needs resources. I call upon all States and other donors to support the Trust Fund, so that it may expand and sustain assistance mandate programmes and maintain and increase the financial reserve to complement the payment of Court-ordered reparations awards.

(*spoke in French*)

In total, 10 situations are currently under investigation by the Court, of which 5 were referred

to the Prosecutor by the States concerned. On 21 September, the Prosecutor received a new referral from the Government of Gabon concerning the situation unfolding in that country since May 2016. The Prosecutor is currently conducting a preliminary examination to determine whether the criteria for opening an investigation under the Rome Statute have been met. The Prosecutor is also conducting nine other preliminary examinations on situations unfolding on various continents.

The assistance and cooperation of States remain crucial to the Court's ability to fulfil its mandate. In accordance with the Rome Statute, States parties are obligated to cooperate fully with the Court's investigations and prosecutions. Furthermore, the Security Council resolutions referring the situations in Darfur, in the Sudan, and Libya to the Prosecutor have imposed an obligation on the two States in question to cooperate fully with the Court in the context of those situationsand have urged all other States to do the same.The cooperation of all States, whether or not they are parties to the Rome Statute, is essential to enable impartialand effective investigations. Access to crime scenes and all relevant evidence, victims and witnesses is crucial for the judicial process.

The Court greatly appreciates the numerous States that provide active support. We endeavour to nurture these relations through various initiatives, including cooperation seminars and workshops. There are many priority areas for the Court, but I would particularly like to highlight the continued need for the relocation of witnesses under threat, assistance with financial investigations and the arrest and transfer of suspects. It is of great concern that requests for arrest and transfer issued by the Court remain outstanding with respect to 13 individuals, some of which have not been carried out for over 10 years.

Improving the efficiency and effectiveness of the Court's operations remains my main priority as President of this institution. All organs of the Court have embarked upon reforms to improve its performance. Efforts made in this regard, including the collective efforts of judges to expedite judicial proceedings, have already begun to produce concrete results in recent proceedings.

I have just returned from the second judges' retreat, where we took our reforms further this time by tackling issues relating to trials as well as the legal representation of victims. Once again, by analysing and comparing our experiences, we have identified common ground and best practices. I am confident that the results will soon become visible. In addition, in the context of the overarching effort to improve effectiveness, the Court has made significant progress in developing qualitative and quantitative indicators to measure performance. A report on this progress will be submitted in the coming days to the Assembly of States Parties.

We have also seen recent developments that are not the work of the Court but do contribute to strengthening an effective system of justice based on the Rome Statute. In this respect, I welcome the establishment of the International Criminal Court Bar Association by the defence counsel and the legal representatives of victims — an association with the aim of reinforcing the independence of counsel, strengthening the equality of arms and enhancing the quality of justice of the Court. I fully agree with these objectives. Professional counsel and an effective defence are essential to a fair and efficient system of justice. In this respect, I urge all States to respond favourably to requests for cooperation emanating from defence teams participating in ICC proceedings.

Since my last report, we have welcomed a new member to the family of ICC States parties. I reiterate here my warmest congratulations to the Republic of El Salvador for its historic decision to join the Rome Statute, which is a decision in favour of justice, peace and global solidarity. I was delighted to facilitate the process personally by participating in detailed technical discussions on the Rome Statute with the Salvadorian parliamentarians.

I also welcome the accession of Samoa to the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of parties to the Agreement to 75. I encourage all remaining States parties and other interested States to consider ratifying this Agreement.

Finally, since my last report, six States have ratified the Kampala Amendments to article 8 of the Rome Statue. Eight States have ratified the Amendments on the crime of aggression, bringing the total number of ratifications for both Amendments to 32.

On 26 June 2017, the Amendments on the crime of aggression will have entered into force for 30 States. The Court will have jurisdiction over the crime of aggression once a decision is taken by a two-thirds

majority of the Assembly of States Parties after 1 January 2017 to grant it.

(*spoke in English*)

I would now like to refer to the recent announcements of withdrawals from the Rome Statute, the founding Treaty of the Court. In this regard, I wish to reaffirm the importance of the continued commitment of States and the international community to investigating and prosecuting the most serious crimes and to protecting victims across the world. The past two decades have witnessed huge progress in the consolidation of international criminal justice as a fundamental part of the international community's response to conflict and mass atrocities.

In 1998, the ICC was created by countries with the support of civil society from all continents to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes, by whomever committed. Over the years, additional States have continued to join the Court and contributed to its effectiveness by cooperating with its activities. In creating the Court as a permanent and independent judicial institution, States recognize the link between justice, peace and sustainable development and reaffirmed their commitment to fighting impunity.

Most recently, the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 16, demonstrates that connection. The ICC can contribute to the goal of providing access to justice for all and building effective, accountable and inclusive institutions. The Court was not created to replace or compete with States; on the contrary, States have the duty and indeed the right to investigate and prosecute these crimes themselves in the first place. The role of the Court is to provide justice only when States fail to do so.

Since its creation, the Court has made significant achievements in addressing crimes of concern to the international community as a whole, such as the use of child soldiers, sexual violence in conflict, attacks on civilians and the destruction of cultural property. Crucially, the creation of the ICC has given a voice to victims by allowing them to participate in the Court's proceedings and request reparations. The Trust Fund for Victims associated with the Court has already assisted more than 300,000 victims with physical and psychological rehabilitation as well as material support.

The Court is doing its work and has embarked on a number of important reforms to enhance the speed and quality of prosecutions and judicial proceedings. The important results achieved this year are a clear demonstration of the Court's commitment to delivering high-quality justice.

The work of the Court continues. In order to bring perpetrators of crimes to justice and protect victims across the world equally, it is essential that support for the Court remain strong and that States' participation in the Rome Statute be maintained and enlarged.

The President: I thank the President of the International Criminal Court for her briefing.

I now give the floor to the observer of the European Union.

Mr. Vale de Almeida (European Union): I have the honour to speak on behalf of the European Union (EU) and its 28 member States. The candidate countries Montenegro, Albania and Serbia; the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina; and Ukraine and Georgia align themselves with this statement.

We would like to thank President Fernández de Gurmendi for her presence here in New York and for her comprehensive briefing. We also thank the International Criminal Court (ICC) for its annual report to the United Nations (see A/71/342), covering the period from August 2015 to July 2016, detailing what is described as a particularly busy year for the ICC.

The European Union and its member States consider the fight against impunity for the most serious crimes to be critical for creating a fair and just society by holding the perpetrators accountable and ensuring justice for the victims. We also believe that peace and justice are complementary and not mutually exclusive. We are strong supporters of the International Criminal Court, which is a key institution for helping victims dealing with the most serious kinds of crimes to achieve justice when they cannot do so at the national level.

All perpetrators of such crimes must be held accountable for their actions, and a key element of the Rome Statute is its equal application. In that regard, the establishment of the ICC has given millions of victims of atrocity crimes new hope that justice will be done. States from all over the world have worked together to make this possible. Our strong policy in this respect has a firm institutional foundation in European

Union legislation, which is adjusted to the Court's evolving activity.

The European Union and its member States therefore regret the decisions by the Republic of South Africa and Burundi to withdraw from the Rome Statute. We also note with concern that the Gambia has announced its intention to withdraw. We join Mr. Sidiki Kaba, President of the Assembly of the States Parties to the Rome Statute, in inviting these States to reconsider their position. What was right in 1998 is still right. The world needs the ICC, and the ICC needs the support of every country. We would like to continue our engagement with these countries and with all our other partners in determining how we can all continue to act constructively in furthering the important work of the International Criminal Court.

The primary responsibility for bringing offenders to justice lies with States themselves. Complementarity is a core principle of the Rome Statute. In order to make it operational, all States parties have to prepare and adopt effective national legislation so as to implement the Rome Statute in their national systems. Through various assistance instruments and projects, we support initiatives that focus on encouraging States to cooperate in the fight against impunity for atrocity crimes, including through improved ways to provide mutual legal assistance.

With 23 cases in 10 situations at different stages of their proceedings, 11 situations under preliminary examination and one new investigation by the Prosecutor, the ICC is once again facing an increasing workload this year. It is worth noting that the Court is now conducting preliminary examinations and situation investigations in most regions of the world — Latin America, Asia, Africa and Europe. It remains a hope for justice and accountability in situations that would otherwise be hopeless.

A number of States have demonstrated their trust in that hope by submitting situations to the ICC. We note the important judicial developments as the Court has fulfilled its mandate, as reflected in this year's report. In the context of the Court's increasing workload, we underline how important it is to ensure that it functions efficiently and effectively.

The universality of the Rome Statute, which continues to be one of the main challenges facing the ICC, is essential to ensuring accountability for the most serious crimes of concern to the international community. We will continue to work tirelessly to make the Rome Statute truly universal.

On 3 March, El Salvador deposited its instrument of accession to the Statute. We hope that El Salvador's decision will encourage ratification processes elsewhere in the world. We also note that the threshold of 30 ratifications of the Kampala Amendments on the crime of aggression, as provided for in resolution RC/Res.6 of the Review Conference of the Rome Statute, adopted in 11 June 2010, has been met this year. During the reporting period, the EU continued to engage in promoting the universality of the Rome Statute and the Agreement on Privileges and Immunities, as well as a better understanding of the Court's mandate.

Another continuing fundamental challenge is the need to ensure that States parties cooperate with the ICC and that they do so in accordance with the Security Council resolutions that refer situations to the Court. We note with concern instances of non-cooperation, including those that have been referred to the Security Council. We welcome the response of the President of the Security Council in December 2015 that decisions of the Court concerning non-cooperation were brought to the attention of Council members, and we encourage the Council to find ways to improve the implementation of the obligations created by its two referrals of the situations in Darfur and in Libya.

Non-cooperation with the Court stifles the ICC's capacity to deliver justice. We call on all States to take consistent action to encourage appropriate and full cooperation with the Court, including the prompt execution of arrest warrants. We also reiterate how crucial it is to ensure that all States refrain from helping to shelter or hide perpetrators of the most serious crimes, and that they take the necessary steps to bring those perpetrators to justice in order to end impunity.

We welcome the efforts of States, international organizations and civil society to increase their cooperation with the ICC and their assistance to it. We particularly commend the ongoing United Nations cooperation with the Court, which is detailed in the report, both at Headquarters and within United Nations specialized institutions and field missions.

Our common goal continues to be the same — to further strengthen the Court so that it can fulfil its mandate effectively. There are States parties to the ICC all over the world, and they share ownership of the Rome Statute. We will continue to encourage the

widest possible participation in the Statute, support the independence of the Court and promote cooperation with it.

Ms. Beckles (Trinidad and Tobago): I have the honour to deliver this statement on behalf of the 14 States members of the Caribbean Community (CARICOM).

At the outset, we would like to reiterate our unequivocal commitment to upholding the purposes and principles on which the International Criminal Court (ICC) was founded. We also wish to express our gratitude to the Secretary-General for the reports contained in documents A/71/342, A/71/346 and A/71/349, which provide useful information on the Court's activities in 2015 and 2016.

CARICOM remains fully committed to supporting the Court and its primary objective of helping to put an end to impunity for the most serious crimes of concern to the international community, as well as contributing to the prevention of such crimes, as listed under article 5 of the Rome Statute of the ICC. Within our own region, the late Arthur N. R. Robinson, former Prime Minister and President of Trinidad and Tobago, has been credited as one of the forefathers of the ICC through his pioneering work leading to the Court's establishment.

Notwithstanding its many challenges, the ICC continues to be a beacon of hope to the victims of crimes within its jurisdiction who are seeking justice. They include thousands of women and children, who are often most affected by the actions of criminals who show blatant disregard for the sanctity of human life by violating international humanitarian law and international human rights. In that regard, we are particularly pleased to note that the Trust Fund for Victims provided more than 300,000 people with psychological and physical rehabilitation as well as material support. We therefore recognize the ICC's importance in promoting the rule of law, encouraging respect for human rights, and achieving sustainable peace and the further development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations.

CARICOM contends that the success of the Court is intrinsically linked to the universality of the Rome Statute. We are therefore convinced that increased cooperation would improve the Court's ability to effectively discharge the mandate entrusted to it by the States parties. In that regard, we reiterate our commitment to promoting the universality of the Statute and urge all States that have not yet done so to take the necessary steps to ratify and fully implement it with a view to promoting its universality.

We welcome the most recent ratifications of the amendments on the crime of aggression, which have brought the total to 32. CARICOM recalls the decision made in 2010 at the Kampala Review Conference of the Rome Statute under which the Court will be able to exercise jurisdiction over the crime of aggression once 30 States had ratified the amendments, subject to a decision by the Assembly of States Parties to activate it. We therefore look forward to the Assembly's decision in that regard, which will be taken in 2017.

Cooperation with the Court remains at the heart of the Rome Statute and is the duty not only of States parties but of all States Members of the United Nations, especially in cases referred to the Court by the Security Council. In the light of the concerns of some who see the ICC's criminal jurisdiction as a possible threat to national sovereignty, we would like to recall that, under the principle of complementarity enshrined in the Rome Statute, the Court's jurisdiction is invoked only when States are unable or unwilling to prosecute those deemed guilty of grave crimes of concern to the international community. No individual or State should fear the ICC, since it is a court of last resort.

Pursuant to the report of the Secretary-General on that subject, we would also like to recall that, while the Security Council's ability to refer a situation to the Court is crucial to promoting accountability, it is also essential to conduct active follow-up of referrals to ensure cooperation — that is, to obtain the arrest and surrender of individuals — so that effective justice can be delivered. We fully agree with the report's contention that perceived inaction on the part of the Council risks undermining both its own credibility and that of the Court. CARICOM remains deeply concerned about some States' failure to honour their legally binding obligations to cooperate with the Court in the execution of outstanding arrest warrants. Those who fail to cooperate with the Court's efforts to bring criminals to justice are contributing to a culture of impunity that not only undermines the rule of law but is also an affront to the victims of grave crimes.

CARICOM commends the Court's efforts to ensure that justice prevails and that criminals are not allowed to continue their activity with impunity. We

continue to be satisfied with the steadfast commitment and hard work of Ms. Fatou Bensouda, the Prosecutor, who continues to discharge her mandate in a manner consistent with the provisions of the Rome Statute. We take note of the preliminary examinations conducted in 11 countries and the newly opened investigation following the Court's judicial authorization.

Mr. Pecsteen de Buytswerve (Belgium), Vice-President, took the Chair.

However, CARICOM remains concerned about the Court's unprecedented workload, with four cases simultaneously in the trial stage and several others at other stages of their proceedings. To mitigate the situation, we reiterate our call for the ICC to be provided with the resources that it needs to properly discharge its mandate. CARICOM also urges States parties that have not yet done so to pay their outstanding contributions, so as to ensure that the Court can discharge its responsibilities effectively and efficiently. We also encourage States to make voluntary contributions to the Trust Fund for Victims with a view to ensuring adequate reparations. Given article 115 (b) of the Rome Statute and the Relationship Agreement between the United Nations and the ICC, CARICOM would like to recall here that expenses associated with Security Council referrals should be reimbursed with United Nations funds. To that end, we once again reiterate our call for the United Nations to honour its obligation to meet the costs associated with referrals by the Security Council to the ICC.

In closing, I wish to express the unequivocal support of Trinidad and Tobago for the ICC and for the promotion of the universality of the Rome Statute.

Mr. Petersen (Denmark): I have the honour to speak on behalf of the five Nordic countries: Finland, Iceland, Norway, Sweden and my own country, Denmark.

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/71/342). I would also like to thank Judge Fernández de Gurmendi, President of the Court, for her thorough presentation of the main issues in the report. The Nordic countries would like to express our sincere appreciation to the Court for its significant contribution to the fight against impunity worldwide.

It is evident that the caseload of the Court has continued to increase. I will now give a few statistics in that regard.

During the reporting period, the Office of the Prosecutor conducted preliminary examination activities in 11 situations in Asia, Africa, the Middle East, Europe and Latin America, and opened a new investigation into the situation in Georgia, following judicial authorization by the Court. In total, the Court is currently seized of 23 cases and 10 country situations. Those numbers and the geographical scope of cases are unprecedented in the history of the Court. That shows that the ICC is truly a global criminal court. During the reporting period, the Court also rendered its first conviction for counts of sexual violence and command responsibility, which is an important achievement in the quest to bring justice to victims of those atrocious crimes. We therefore commend the President, the Chief Prosecutor, their staff and the entire Court for the dedicated and professional manner in which they carry out their work.

Holding to account perpetrators and ensuring justice for victims of the most serious crimes of concern to the international community are principles shared by States in all parts of the world. The International Criminal Court is an essential means not only for promoting respect for international humanitarian law and human rights law, but also for advancing post-conflict peacebuilding and reconciliation with a view to achieving sustainable development and peace.

We wish to stress the importance of full cooperation by States. It is a cause for concern that the number of outstanding arrest warrants remains high. Requests for arrest and surrender issued by the Court remain outstanding against 13 individuals. States parties have a legal obligation under the Rome Statute to cooperate fully with the Court. We therefore strongly urge all States to cooperate fully and effectively with the Court, in line with the applicable Security Council resolutions.

The Court's promise of justice for the victims goes together with the reach of its jurisdiction, which depends, first and foremost, on how universally the Rome Statute has been ratified. While being fully within the provisions of the Rome Statute, recent decisions and notifications by States parties to withdraw from the Rome Statute are deeply regrettable. The Nordic countries continue to stand ready for a constructive discussion about concerns that some States parties may have within the framework and fundamental principles of the Rome Statute.

States have the primary responsibility to investigate and prosecute crimes, as the ICC is a court of last resort. However, States affected by genocide, crimes against humanity and war crimes might at times need capacity support so as to be able to initiate investigations and conduct criminal proceedings. The Nordic countries emphasize the value of States parties assisting each other in developing such capacity. We remain committed to strong international cooperation in that area – cooperation that engages international, regional and national actors in the justice sector, as well as civil society, so as to further the implementation of the principle of complementarity. We stress that States parties may also benefit from the knowledge and expertise of the Court.

One concrete example of our complementarity engagement is provided by the Justice Rapid Response facility, which is a support mechanism for providing States and organizations with rapidly deployable criminal-justice professionals trained for international investigations.

We welcome the ongoing cooperation between the United Nations and the ICC as described in the report. Cooperation between the Court and the Security Council should be further enhanced, which is particularly true in cases of non-cooperation with the ICC. Cases referred to the Court by the Security Council also need strengthened follow-up. The Syrian situation is reaching a horrible magnitude, and we deeply regret that the Council has been unable to refer it to the ICC. We strongly urge the Council to continue efforts to refer that situation to the Court. Without stronger and more committed action by the Council and States parties, the situation will not improve. All those responsible for war crimes and other serious international crimes must be held accountable.

In the meantime, the quest for universal adherence to and implementation of the Rome Statute should also be intensified. Justice must be ensured for victims of mass atrocities in Iraq. We therefore repeat our call upon Iraq to accede to the Rome Statute. We also stress the need for all States parties, as well as non-States parties that have not yet done so to ratify and fully observe the Agreement on the Privileges and Immunities of the ICC as a matter of priority.

The full realization of the rights of victims is an important aspect of the continuing success and relevance of the Court. We commend the important work of the ICC Trust Fund for Victims, which has supported more than 300,000 victims in northern Uganda and the Democratic Republic of the Congo. We encourage States and other actors to contribute to the Trust Fund. The Nordic countries also welcome the ambitions of the Office of the Prosecutor to further enhance the efficiency of the Court. We especially welcome the Prosecutor's policies aimed at addressing crimes against those most vulnerable in important areas such as sexual and gender-based crimes, and at prosecuting crimes against children.

During the reporting period, the Court also moved into its new, permanent premises in The Hague, funded by the States parties. The completion of the new, purpose-built building of the Court is a major milestone for the ICC as a permanent international institution. We hope that the Court will make the most effective use of the new premises so as to achieve justice for victims and contribute to the prevention of core international crimes. In order for the Court to do so and be able to carry out its tasks in the most efficient way, it also needs to be properly funded. The Court's budget will be dealt with in the Assembly of States Parties later this month, but we wish to underline the worldwide activities of the Court, as reflected in the report. It is our common responsibility to ensure that the Court has sufficient resources to carry out its important mandate in a time of strongly increasing demand.

Let me conclude by renewing our pledge that the Nordic countries will remain staunch supporters of the ICC. We are committed to continuing to work for the Court's effectiveness, independence and integrity.

Ms. Bird (Australia): The world needs the International Criminal Court. The Court embodies States parties' commitment to hold to account those most responsible for the crimes that shock us most, namely, genocide, crimes against humanity and war crimes. It embodies a commitment that when States are unwilling or unable to investigate and prosecute those crimes, the international community will step in and provide justice for the victims. It entails a commitment to contribute to the prevention of those crimes.

The ICC is only as strong as the commitment of the States on whose cooperation and support the Court relies. We underline our expectation that States will fulfil their obligations to cooperate with the Court, whether those obligations derive from being a party to the Rome Statute or from resolutions of the

Security Council. Support from the United Nations is also crucial. We welcome Secretary-General Ban Ki-moon's ongoing support for the Court and express our expectation that the incoming Secretary-General, Mr. Guterres, will follow in his footsteps.

The support of the Security Council is particularly important, especially in the case of Council referrals. It is essential that such referrals be accompanied by the Council's clear demonstration of ongoing political support in order to maximize States' cooperation with the Court and minimize any possible perception that the ICC is subject to the Council's shifting political dynamics. That accords with Australia's vision of a Security Council that demonstrates real leadership in ending impunity for serious international crimes.

The ICC's mandate is inherently political. Its job is to hold to account those most responsible, who all too often are among the most powerful. We accept the reality that the ICC's mandate is likely to mean that it will always have more than its fair share of critics. Nonetheless, we do not shy away from acknowledging the fact that as this debate takes place today, the Court faces more challenges than ever before. Nor do we wish to ignore the need to work with those States that have raised concerns. While we recognize that membership in an international treaty is a sovereign decision, we take the opportunity to encourage those States parties that have indicated that they intend to withdraw from the Rome Statute to reconsider their decision. As we have said before and as we have demonstrated with our actions, Australia is committed to working together with all States parties to ensure that the Court is the strongest possible institution that we can make it, so that we can ensure that the ICC's vital mandate can be fulfilled.

Australia is convinced that while timing can be important, holding to account those most responsible for serious international crimes is crucial to the establishment of inclusive and lasting peace. History has demonstrated time and again just how difficult it is to prevent cycles of violence in the absence of justice. We must heed that lesson. The ICC, as a court of last resort, has a critical role to play in that regard.

Australia once again calls on States that have not done so to ratify the Rome Statute in order to send a clear and universal message to would-be perpetrators that Rome Statute crimes will not be tolerated. For our part, Australia remains deeply committed to supporting the Court and doing what we can to advance our common cause of ending impunity for those who commit the most serious international crimes that shock the conscience of humankind.

Mr. Lauber (Switzerland) (*spoke in French*): First of all, I would like to thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for presenting the Court's report (see A/71/342) this morning and commend her and her team for the excellent work that they have been doing in the Court, which is at the heart of any progress that we have seen.

The ICC was created for the victims of the most serious crimes of concern to the international community as a whole. It works neither for the benefit of certain States or regions nor to their detriment. The ICC is the centrepiece of the fight against impunity. While States continue to bear the primary responsibility for prosecuting criminals, the Court intervenes when the national authorities are unable or unwilling to prosecute those responsible for the most serious crimes of concern to the international community. The Court contributes to ensuring justice to victims when no other tribunal will do so.

It is true that the Rome Statute system is a voluntary system. It is the sovereign right of every State to join or not join in that system. That decision, like any other, bears consequences. Here, the consequences are borne not by the political leaders of the world but by those affected by conflicts, war crimes, crimes against humanity and genocide. The decisions of South Africa, Burundi and the Gambia to withdraw from the Rome Statute therefore send a troubling signal. If anything, the multiplication of horrendous crimes around the globe should prompt us all to engage more thoroughly in the fight against impunity and certainly not to reduce that commitment.

Much of the criticism against the ICC does not originate from the purported flaws of the institution. In fact, quite the contrary is true. The Court is rejected by some because it does, in fact, execute its mandate successfully. In the past year, success has come in the form of key judgments that have provided justice for victims, ensured the accountability of perpetrators and affirmed the rule of law. In *The Prosecutor v. Jean-Pierre Bemba Gombo* case, for instance, the Court highlighted that superiors are responsible for the actions of their subordinates. In *The Prosecutor v. Ahmad Al*

Faqi Al Mahdi, it underlined that the destruction of cultural heritage will be punished. Just a few days ago, the Court gave the green light for symbolic collective reparations for the victims relating to the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

The ICC can sanction and prevent not only crimes, but also wars, which is one of the main goals of the United Nations. The amendment to the Rome Statute on the crime of aggression has now been ratified by more than 30 States parties. The Court's jurisdiction over such crimes can be activated by the Assembly of States Parties starting next year. Having ratified the amendment last year, Switzerland calls on all other States parties to do the same.

Almost two thirds of all of the States represented in the General Assembly have adhered to the Rome Statute, and we specifically call on them to uphold the key principles that serve as a precondition to the work of the ICC. First, States parties need to strictly respect the independence of the ICC. Politics have no place in a court, either at the national or at the international level. Secondly, States parties need to continue to insist that even the highest officials of a State can be subject to prosecution before the ICC. Those who plan and order the commission of serious crimes bear the greatest responsibility for them. Finally, States parties need to cooperate fully with the ICC, especially in the execution of requests by the Prosecutor and arrest warrants. States are the limbs of the the international criminal justice system.

Switzerland deplores the lack of action on the part of the Security Council in relation to the complete impunity prevailing in Syria. In 2014, draft resolution S/2014/348, aimed at referring that situation to the ICC, was not adopted despite the approval of 13 Council members and the sponsorship of 65 States. Today, we continue to witness the repeated and systematic commission of serious crimes by all parties to the conflict, including the bombing of hospitals, humanitarian convoys and besieged cities in which civilians live under horrendous circumstances. My delegation therefore renews its call on the Security Council to refer the situation in Syria to the ICC. The right to veto should never be used in situations involving international crimes, whether in Syria or elsewhere.

We welcome that the United Nations and the ICC have established a close and mutually beneficial working relationship on many other levels. That relationship encompasses numerous United Nations entities, including the Department of Political Affairs, the Department of Peacekeeping Operations and the United Nations Development Programme, as well as representatives on the ground in Mali and in the Central African Republic. We also support cooperation between the ICC and United Nations commissions of inquiry, groups and panels, as well as joint efforts aimed at strengthening capacities in national jurisdictions, so that they can deal with the most serious crimes of international concern. If we want to end impunity, we must make it an imperative goal to turn complementarity into a reality.

In conclusion, my delegation recalls that the Secretary-General, Mr. Ban Ki-moon, proclaimed that the ICC heralded an era of accountability based on the experience that there can be no sustainable peace without justice. He has devoted himself to making accountability a reality, and we thank him for that. We encourage the Secretary-General-designate to pursue that same commitment, because much remains to be done, and we all have a role to play.

Mr. Mikanagi (Japan): At the outset, I would like to thank President Silvia Fernández de Gurmendi of the International Criminal Court (ICC) for her dedication and leadership, as well as for her presentation of the comprehensive report on the work of the Court (see A/71/342).

Japan's core policy towards the ICC is to enable it to function effectively and sustainably with the support of the international community. Japan is proud of being the largest financial contributor to the Court. We are also dedicated to supporting the ICC through capable human resources, including judges, and became the first country to participate in the ICC Junior Professional Officers programme this year. We hope that the programme will enable many junior officers to gain experience and knowledge at the ICC, while also contributing to its work.

Japan believes that the ICC has made steady progress in the judicial field. The Court has been exercising its jurisdiction with regard to 10 situations, and 10 preliminary examinations are ongoing. Nevertheless, we are cognizant of the fact that financial and human resources are limited, and we believe that they should be used efficiently. With that in mind, the Japanese Ambassador to the Netherlands, Hiroshi Inomata, has been working with Chile as co-chair of the

Study Group on Governance to enhance the efficiency of the Court. We believe that such exercises carried out by States parties can help mitigate the Court's unprecedented workload.

It is vital for the ICC to have the cooperation of the States parties. That is clearly one of the biggest challenges that the Court is currently facing. This year, Japan, together with Australia, the Czech Republic, Peru and Senegal and in close consultation with interested parties, prepared a toolkit to assist States parties by providing possible actions that can be taken when they foresee possible incidents of non-cooperation. We hope that the toolkit will be useful to everyone and that it will prevent future non-cooperation issues. Cooperation is also crucial when the Security Council refers situations to the Court. The ICC can function more effectively when the Security Council follows up on such situations in close cooperation with the Court and the States concerned. While there is no clear-cut answer to that issue, my delegation is happy to contribute to further dialogue on the matter.

Japan strongly believes that more countries should join the ICC to ensure that it effectively promotes the rule of law throughout the world. In the long-run, the ICC should aim at becoming a truly universal criminal court, so that it can gain strong support for its work. In that regard, we are concerned about recent decisions that were taken by some African States to withdraw from the ICC. In order to gain the support and cooperation of a greater number of States in carrying out its activities, the ICC and its States parties should listen to the concerns expressed by the wider audience and make efforts to enhance its universality.

In closing, I wish to express Japan's sincere appreciation for the work that the ICC has accomplished to date. We hope that it will continue to work diligently in the fight against impunity while consolidating its credibility, both inside and outside the Rome Statute system. Japan pledges to strengthen its contributions to the ICC and to continue to enhance respect for the rule of law.

Ms. Owen (United States of America): I thank President Silvia Fernández de Gurmendi of the International Criminal Court (ICC) for her presentation of the Court's report on its activities (see A/70/342) and for her continued leadership as President of the Court.

The United States has long viewed the end of impunity for mass atrocities as both a moral imperative and a stabilizing force in international affairs. To that end, we continue to work with bilateral partners, regional organizations and the United Nations on a case-by-case basis and in a manner consistent with United States policy and law, and with the International Criminal Court, to identify practical ways to advance accountability for the worst crimes known to humanity. As is so often the case, the past year has seen both remarkable progress and deeply frustrating setbacks in that regard, reinforcing how important it is that the international community strive to find ways to intensify its collaboration in support of justice and reflect and take stock of its common efforts.

As reflected in the Court's report, there have been a number of successes at the Court with regard to accountability, demonstrating the many ways in which it and other courts like it can have an impact. The United States welcomed the conviction in September of Ahmad Al-Faqi Al-Mahdi for destroying mausoleums and shrines in Timbuktu — a verdict that emphasized the seriousness with which the international community views the purposeful destruction of cultural property. We welcome the upcoming opening of the trial of Dominic Ongwen, who will be the first commander of the Lord's Resistance Army to face charges for his role in that vicious armed group's crimes against civilians. And most recently, Jean-Pierre Bemba Gombo's conviction in March for war crimes was followed just two weeks ago by a verdict finding him and four associates guilty of offenses against the administration of justice, thereby showing the importance of ensuring the integrity of accountability proceedings.

Given recent developments, it seems appropriate to note that all of those landmark actions occurred in situations in which the ICC acted at the request of a national Government that was unable itself to investigate, bring charges and help vindicate the rights of victims. We welcome the report of continued work by peacekeeping missions authorized by the Security Council to support appropriate national efforts to pursue justice and accountability, as well as the continued work by UN-Women, the Special Representative of the Secretary-General on Sexual Violence in Conflict and the Office of the Prosecutor of the ICC to ensure that sexual and gender-based violence receives the attention and the focused effort towards accountability that it too rarely receives.

We have seen a number of countries take the positive step of leading the pursuit of justice within

their domestic systems, with support from the international community, including the completion in Senegal of proceedings against Hissène Habré for crimes committed during his tenure as President of Chad, and the establishment by the Government of Kosovo of the Kosovo Specialist Chambers in that country's judiciary, which will examine allegations of serious crimes committed from 1998 to 2000.

Similarly, we support the prompt establishment of the Hybrid Court for South Sudan, which we hope can be an effective measure for ending the cycle of impunity in that country and provide a measure of justice to the victims of the brutal conflict there. Finally, the Central African Republic has welcomed the ICC as an essential ally in the fight against impunity, working alongside Central African Republic's domestic efforts to establish a special criminal court focused on atrocity crimes — a process that we urge them to complete as quickly as possible, given the importance of providing accountability and bolstering capacity at the national level, even where the ICC is already involved.

As we reflect on recent events, we should think about the ways in which such efforts, both within and without the ICC, have meaningfully and positively contributed to breaking cycles of conflict and impunity. Yet, while many of those developments are encouraging, we remain alarmed by the continuing suffering in far too many situations elsewhere in the world, where the victims of mass atrocities still have not seen a sufficient response to calls for justice. We must remain vigilant and steady in our march toward a world increasingly intolerant of impunity.

Clearly, there remains much to be done in our work together to prevent mass atrocities and bring to justice those who commit crimes against humanity, war crimes and genocide. The ICC cannot grapple with every mass atrocity situation in the world, and even where it is involved, the Court will be able to address at most only a small handful of cases. Given that reality and the limited resources and increasing demands that it faces, it will be important for the ICC to ensure that its choices are guided by justice, rigour, fairness and care. In that connection, the international community should strive to ensure that the Court is able to remain focused on its core mandate: to address war crimes, crimes against humanity and genocide.

We note in that regard that the United States continues to have serious concerns about the Rome Statute amendments on the crime of aggression adopted in 2010 at Kampala. We believe that it is in the interest of both peace and justice to ensure that any decision to activate the Court's jurisdiction over that crime be preceded by concrete steps to provide greater clarity regarding certain critical issues, including regarding what conduct and which States would be covered by the amendments. We continue to believe that a decision to activate the amendments without clarification of those issues will further chill the willingness of States to take action aimed at stopping the very atrocities that prompted the Court's creation, and will compound the challenges already facing the Court by enmeshing it in disputes of a far more political character than it currently faces. On that and other issues of justice and accountability, we look forward to continuing to pursue partnership and seek common ground with Governments and civil society, wherever possible.

Mr. Van Bohemen (New Zealand): I begin by thanking my friend and colleague, Judge Silvia Fernández of the International Criminal Court (ICC), for presenting the report on the work of the Court (see A/71/342) and for her ongoing service to the Court. We welcome the opportunity for continued dialogue to discuss the Court's contribution to international criminal justice and its relationship with the United Nations. New Zealand has been a long-standing supporter of efforts to break the cycle of impunity for the most serious international crimes, regardless of where they occur. For that reason, New Zealand is and remains a strong supporter of the Court and of the universality of the Rome Statute.

New Zealand has also been ready to express its concerns when we have felt that the Court could perform better in managing some of the issues facing it. As we reflect on the past year, we note that there have been some positive milestones for the Court, to which I will return later. But first, we should not shy away in our annual debate this year from the very significant recent developments that confront us.

Members will be aware that New Zealand has consistently underlined that the Court and the States parties must be more open to constructive dialogue and engagement among the Court, Member States, the United Nations and regional organizations, including the African Union. That is why we welcomed the recent efforts undertaken by His Excellency Mr. Sidiki Kaba, President of the Assembly of States Parties to the Rome

Statute of the ICC, and Prosecutor Fatou Bensouda of the Court in that regard.

We have long encouraged better engagement with the African Union and African States on issues that we understand are of real concern to them and which,

in our view, merit careful consideration. African States have played an essential role in the Court since its inception and have been, through their referrals, actively engaged with the Court. So that is the context in which we must record our disappointment that Burundi, South Africa and the Gambia have taken the decision to withdraw from the Rome Statute. In our view, those decisions are regrettable. We hope that in the time that remains before those decisions take effect, there is room for meaningful dialogue on a potential resolution of the issue and for working out a pathway back to full membership in the Court. That will necessarily involve a willingness to explore the issues through genuine engagement. Those issues are inherently difficult and require a commitment by all sides to listen carefully to each others' perspectives, which will be an important prerequisite to any progress.

At the same time we must not panic. It was always likely that there would be teething problems with the Court, the need for which had been debated for over 50 years, and especially at a time when the world is experiencing some of the most difficult political tensions since the end of the Cold War. We need to take the challenges seriously and recognize the political realities in which the Court operates.

The Court was the creation of a diplomatic process, and we will need a diplomatic process to address the challenges that it is now facing. The task is to do that in a way that preserves the integrity of and support for the Court, which will be essential for its growth and ongoing viability in the international criminal-justice framework. It also requires from the States parties more meaningful engagement than we have seen to date to acknowledge and address the underlying concerns. We particularly urge other States parties to continue the discussions at and around the Assembly of States Parties.

New Zealand remains committed to working with all States parties to create the conditions necessary for such a dialogue to take place — a dialogue that is open, honest, respectful and focused on our common goal of ending impunity. We are conscious that achieving that goal will include cooperation and mechanisms at the national, regional and international levels.

We also want, of course, to acknowledge the more positive developments that have occurred over the past year. We welcome the move to the new purpose-built premises, the thirtieth ratification of the Kampala amendments on the crime of aggression and the first conviction for the war crime of the destruction of cultural property in Mali.

But as we have explained earlier, we cannot ignore the challenges ahead, nor can we expect them to be resolved quickly. It remains imperative to continue to strengthen the practical working relationships between the Court and the United Nations at all levels. In particular, we encourage greater cooperation, coordination and information-sharing with United Nations sanctions committees. Targeted sanctions are an important tool for addressing threats to international peace and security, including the commission of serious international crimes.

As a member of the Security Council, New Zealand emphasizes that the relationship between the Court and the Security Council remains as important as ever. As previously expressed by my delegation, when the Council refers a situation to the Court, it should do so with a clear commitment to follow up. We believe that it is not just a question of providing the Court with the necessary support and resources for the referrals that the Council makes, including in relation to the Court's findings of non-cooperation, but of upholding the binding nature of Chapter VII resolutions. The failure to take action calls into question the authority of the Council and its resolutions. Equally, as we have previously said, the Council must be scrupulously careful to avoid using referrals as a political tool in the midst of a conflict. That only politicizes the Court and can prolong both conflicts and impunity.

Our experience on the Council over the past 22 months has only reinforced our view that a robust international accountability framework is essential. The existence of the Court sends a clear message that the crimes specified in the Rome Statute will not be tolerated and will not go unpunished. We believe that that objective is common to all of us. For our part, New Zealand remains committed to working with others to strengthen the Court's effectiveness in fulfilling its mandate.

Mr. Racovita (Romania): The Romanian delegation would like to thank the International Criminal Court (ICC) for the twelfth annual report on its activities (see A/71/342), submitted to the United Nations.

at the outset, let me reiterate Romania's full commitment toand support for the Court as the fundamental pillar of international criminal justice. The International Criminal Court plays a vital part in preventing the most serious crimes of global concern, prosecuting the alleged perpetrators of those crimes and securing the rule of law at the international level.

As highlighted in the report, the Court faced a heavy workload over the past year, illustrated, inter alia, by the need to handle four cases simultaneously at trial and several other cases at various stages of proceedings, by the opening of a new investigation on the situation in Georgia and by the handing down of sentences this year for crimes within its jurisdiction. We welcome the move to the new permanent premises, which marks an important milestone for the International Criminal Court as a permanent international institution.

With regard to universality, we commend El Salvador for depositing its instrument of accession to the Rome Statute, thereby raising the number of States parties to 124. We continue to encourage all States to become parties to the Rome Statute. The Romanian delegation equally welcomes the fulfilment of one of the conditions necessary for the activation of the Court's jurisdiction with regard to the crime of aggression, as more than 30 States have already ratified the relevant Kampala amendment.

We express our deep concern with respect to the announced decisions or intentions to withdraw from the Rome Statute expressed by several States parties. While fully acknowledging that withdrawal from an international treaty is a sovereign right, we encourage those States to reconsider their position, to continue to be part of the Rome Statute system and to work together towards reaching its goal of fighting impunity, which is vital to making reconciliation and lasting peace possible. Giving up the Statute of Rome system can only give the wrong message to civil society, and to the victims in particular, that accountability counts less. That certainly is the wrong message, a message that we wanted to correct when we all were engaged in negotiating the Rome Statute. The very rationale of this ambitious project is just as present now, if not more so, as it was then. We must equally take into account the fact that a significant number of situations under investigation at the ICC were submitted by national authorities themselves, thereby illustrating confidence in the institution.

Along with the challenge affecting universality, the International Criminal Court still faces the challenge of cooperation. Non-cooperation as regards the execution of arrest warrants undermines the capacity of the Court to deliver justice and affects the credibility of the justice act. Each State should be aware of the significant role played in the materialization of the international judicial act, in accordance with the legal obligations stemming from the Rome Statute and/or Security Council resolutions.

Romania remains an active supporter of the International Criminal Court and works constantly to promote its activity. In March 2016, the Court organized, in Bucharest, with the support of the Romanian Ministry of Foreign Affairs, a high-level regional seminar on strengthening cooperation with the ICC. The event was organized with the financial support of the European Commission. The aim of the high-level seminar was to foster cooperation between the ICC and countries belonging to the Eastern European Group of States. It covered a number of important issues, including witness protection, State cooperation during ICC investigations, national capacity-building, various types of voluntary agreements and implementing legislation, as well as the benefits of joining the Rome Statute system. The event brought together Government representatives from around 20 countries belonging to the Eastern European Group of States, including the Ministers of Justice from Romania and Georgia, along with officials from regional organizations and from the ICC.

At the end of the meeting in Bucharest, a set of recommendations was adopted in order to promote cooperation with the ICC, highlighting the most relevant issues related to effective cooperation between the ICC and Central and Eastern European States and reflecting the continued commitment within the region to promoting the work of the Court and its values.

In conclusion, I would like to underline again the need for strong, wide and consolidated support from States and from the international community for the ICC. When we stand together, that unique and essential institution can achieve the goals of peace and justice.

The Romanian delegation fully aligns itself with the statement delivered on behalf of the European Union and its member States.

Mr. Cardi (Italy): Let me thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her thoughtful presentation of this year's report of the Court (see A/71/342) to the General Assembly, which shows the increase in the volume of work facing the Court and the increased effectiveness of its proceedings.

Italy aligns itself with the statement delivered by the observer of the European Union. I would like to emphasize only a few points in my national capacity.

First of all, we share the positions of concern and regret expressed by the Secretary-General and by the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Minister Sidiki Kaba of Senegal, on the recent decisions or announcements of intention to withdraw from the Statute. The Rome Statute represents a cornerstone in the fight against impunity and the establishment of an age of accountability. As the Government of Botswana, inter alia, stated, as the only permanent international criminal tribunal, the ICC is an important and unique institution in the international criminal justice system. It took over 50 years, as we know, for the international community to come together in Rome in 1998 and finalize that ambitious treaty, inspired by the fundamental principles of international justice, which must be preserved.

Secondly, in my role as Vice-President of the Assembly of States Parties to the ICC Statute, I am also proud to work side by side with the President of the Assembly of States Parties in his effort to pursue dialogue while preserving the important principles embodied in the Rome Statute. Any issue pertaining to the functioning of the Rome Statute system can be addressed in the Assembly of States Parties as the proper and appropriate platform for States parties to address any concerns that they may have regarding the implementation of the Statute itself. We have been, we are and we remain open to dialogue.

Of course, our focus must remain on the victims. For that reason, it is very important that the international community increase its efforts to uphold the concept of complementarity. The International Criminal Court is a court of last resort. What we would like to see is a stronger capacity at the national level to prosecute crimes and defend the victims. That can be done by enhancing the role of various United Nations bodies and willing Member States in providing technical assistance to strengthen national judicial systems, especially in countries transitioning from war or conflict.

Together, we must make further progress in the fight against impunity, for example, as the Court has shown already with regard to crimes committed by the Islamic State in Iraq and the Sham or Daesh, including by supporting efforts to prosecute crimes against women and children, atrocities against members of protected groups and minorities, and crimes involving the destruction of the cultural heritage, and, hopefully, by promoting the opening of new avenues for the prosecution of traffickers of human beings.

Italy therefore joins other States in calling on all States parties to remain committed to the Rome Statute and on all States to contribute to the prevention and punishment of crimes against humanity.

Mr. Barros Melet (Chile) (*spoke in Spanish*): We would first like to thank the President of the International Criminal Court, Judge Silvia Alejandra Fernández de Gurmendi, for presenting the comprehensive report on the Court's activities (see A/71/342) covering the period from 1 August 2015 to 31 July 2016, which shows, among other things, the significant increase in the Court's workload. We acknowledge the First Vice-President, Judge Joyce Aluoch, and the Second Vice-President, Judge Kuniko Ozaki, as well as the Prosecutor, Ms. Fatou Bensouda.

The International Criminal Court has become the most advanced example of the development of institutions devoted to international criminal justice. From the viewpoint of the protection of human rights, the creation of the Criminal Court is a decided advance in efforts to combat impunity and a clear signal that its States parties have a commitment to the international community, which they must honour in order to meet its objectives.

On 23 September, Chile deposited its instrument of ratification of the Kampala amendments, becoming the thirty-second State to do so. Nevertheless, much remains to be done, which is why my country is working to ensure that, after 1 January 2017, the necessary decisions are taken to activate the jurisdiction of the Court over crimes of aggression. In addition, at home, the Government has supported the relevant legal changes so as to include the crime

of aggression in Chilean criminal law and extend the war crimes mentioned in the Kampala amendments to non-international conflicts.

We reiterate the importance of ensuring that the Court has the necessary material and human means and resources to fulfil its mandate. In that connection, Chile believes that, when the Security Council refers a situation to the International Criminal Court, the General Assembly must make the necessary arrangements to give the Court the financial resources needed to deal with such referrals.

We are also convinced of the need for the Security Council to monitor the cases that it refers to the Court and, in that connection, to pay special attention to situations created by the lack of cooperation by States or the difficulties that may arise as a result. The International Criminal Court will not be able to advance its crucial work to combat impunity without proper cooperation, which is needed so that the perpetrators of crimes within the Court's jurisdiction can be held accountable for their actions. We appeal to all States to cooperate fully with the Court.

We shall not let up in our efforts to achieve the universality and full application of the Rome Statute. We appeal to the States that are not yet parties to the Statute to ratify or accede to it. We welcome El Salvador as a new State party, which brings the number of States parties to this international treaty to 124. We also appeal for greater cooperation between the Court and States, and in particular those that may be experiencing difficulties in that regard, so that they can face, in a timely manner and in accordance with the norms of the Rome Statute, any difficulty that they may encounter in meeting the obligations established therein. We also emphasize the importance of States parties ratifying the Kampala amendments concerning the crime of aggression and article 8 of the Rome Statute.

With regard to the Trust Fund for Victims, we acknowledge the important work that has allowed for ongoing assistance to over 300,000 victims in the reporting period, through the provision of physical and psychological rehabilitation services and material support for the survivors of crimes within the Court's jurisdiction.

I reiterate my country's support for the International Criminal Court and our desire to ensure that it has the necessary means to achieve its objectives and that all the members of the international community recognize it as a solid and legitimate institution in combating impunity.

Mr. Grant (Canada) (*spoke in French*): At the outset, I would like to reiterate Canada's continuing support for the International Criminal Court and the pivotal role that it plays in ensuring accountability for those responsible for the commission of the most serious crimes of international concern.

We must not forget the thousands of children, women and men who have been victims of unimaginable atrocities. As members of the international community, we have a collective duty to those victims to support efforts to ensure that the perpetrators of those crimes are held to account. It is the duty of every State to prosecute within its jurisdiction those responsible for serious international crimes. If States are unwilling or unable to do so, international mechanisms may fill the gaps and serve as courts of last resort.

As such a court of last resort, the International Criminal Court seeks to complement — not replace — national courts, but, in turn, it challenges States to engage in effective and meaningful investigations and prosecutions in providing justice to victims. A majority of Member States are already States parties to the Rome Statute of the International Criminal Court. However, we remain some distance from achieving the full universalization of the Rome Statute. Canada calls upon those States that have not yet done so to consider acceding to the Rome Statute.

It is well known that the Court cannot effectively accomplish its mandate without the necessary cooperation from States parties and others. Over the past year we have witnessed both accomplishments and challenges in the sphere of cooperation. The recent historic guilty plea and conviction of Mr. Al-Mahdi for war crimes related to the destruction of UNESCO-protected shrines in Timbuktu would not have been possible without the cooperation of the Niger and Mali. We welcome their cooperation as a concrete example of the commitment of those two States to justice.

(*spoke in English*)

We remain troubled, however, by instances of non-cooperation, particularly by States parties to the Rome Statute. The fact that arrest warrants issued years ago — including those issued pursuant to referral to the Court by the Security Council — remain unexecuted should be disturbing to all of us as members of the

international community. We encourage all States to abide by their international commitments.

Canada is troubled by the recent decisions of Burundi and South Africa to withdraw from the International Criminal Court and by the announcement by the Gambia of its intention to withdraw. We urge those three countries to reconsider their actions. African States played an important role in both the establishment and the development of the Court. Today their steadfast support is more important than ever in the fight against impunity.

Canada is of the view that the Assembly of States Parties to the Rome Statute is the most appropriate venue for States parties to raise any concerns they have regarding the implementation of the Statute. It is our hope that States parties will use the upcoming session of the Assembly in The Hague as an opportunity for constructive discussion in that regard.

As Secretary-General Kofi Annan said in Rome in 1998, the establishment of the Court is a gift of hope to future generations and a giant step forward in the march towards universal human rights and the rule of law. Building on the legacy of Nuremburg and following the lead of the ad hoc tribunals for Rwanda and the former Yugoslavia, a permanent international criminal court took concrete form with the Rome Conference. The International Criminal Court is the culmination of the international community's dedication to fighting impunity and giving a voice to the victims of atrocity crimes.

The Rome Statute embodies the lessons we have painfully learned from history: that individuals must be held to account to deter future crimes, that no one is above the law, that it is in the interests of all to ensure that those responsible for the gravest crimes are punished, and that fair and legitimate criminal accountability processes can help to lay the groundwork for lasting peace. As States parties, we have committed ourselves to those ideals.

Looking forward, Canada expects that the upcoming fifteenth session of the Assembly of States Parties will be fruitful and will allow us to move forward with strengthening the Court's role. We expect there to be discussions on the administrative issues of budget and governance. In that respect, we underline the important role of the Assembly of States Parties in providing oversight and guidance on these matters as prescribed by the Rome Statute, without, however, unnecessary politicization or micromanagement. The Court and the Assembly must continue to constructively work together to achieve our common goal of establishing, maintaining and strengthening the framework of a permanent, independent judicial institution that has the respect and confidence of the international community.

Mr. Imnadze (Georgia): Georgia aligns itself with the statement made by the observer of the European Union. In my national capacity, I would like to make the following statement.

At the outset, let me thank the President of the International Criminal Court (ICC), Ms. Silvia Fernández de Gurmendi, for the report on the activities of the Court (see A/71/342) and her remarks on the future of international criminal justice. We also thank the President of the Assembly of States Parties to the Rome Statute, Mr. Sidiki Kaba, for his role and leadership in this critical period.

The report before us covers several important milestones, including the groundbreaking case in prosecuting crimes of sexual violence in conflict through the international justice system. We welcome the decision of El Salvador to accede to the Rome Statute, thereby becoming the one hundred and twenty-fourth State party. At the end of the reporting period, the amendment to article 8 and the amendments on the crime of aggression had both been ratified or accepted by 30 States. Georgia has also ratified both amendments and looks forward to the decision of the Assembly of States Parties on the issue of their activation.

Georgia fully subscribes to the notion that without the rule of law, impunity reigns and neither justice nor peace can be achieved. The prevention of the gravest crimes, which, as the preamble to the Rome Statute states, threaten the peace, security and well-being of the world, is vital to upholding the rule of law at the international level, based on the principles of international law and the common values of humankind that the Court and the United Nations share.

Regrettably, our generation continues to witness heinous crimes of unspeakable scale and gravity. The establishment of the International Criminal Court set a new justice paradigm. In that sense, the value of the Court's work for humankind is high in terms not only of the punishment of perpetrators of genocide, war crimes and crimes against humanity, but also of the prevention of the future occurrence of such acts. We believe that accountability is important not simply for

the sake of the past, but in particular to build a future free of violence by avoiding the recurrence of conflicts and the repetition of violence, as well as by ensuring justice for the victims of mass atrocity crimes.

In that context, we regret the recent decisions of some States to leave the jurisdiction of the Court. We would like to encourage the States not yet parties to consider joining the Rome Statute to strengthen the effectiveness and credibility of the Court, as well as to provide further support for international criminal justice.

Georgia reaffirms its commitment to the work undertaken by the Court in accordance with its mandate. Effective and comprehensive cooperation and assistance by States are indispensable for the Court to carry out its activities successfully, more so given the Court's complementary role to national criminal jurisdictions.

Georgia has been cooperating with the Court ever since the ICC Prosecutor announced the start of the preliminary examination of the 2008 war in Georgia, on 14 August 2008. As an enabling factor for the full-fledged cooperation with the ICC, Georgia has put in place adequate implementing legislation of the Rome Statute at the national level. I would like to highlight some of the key aspects of the ongoing cooperation with the ICC.

My country has been a victim of international crimes since the 1990s — and notably in August 2008, when thousands of civilians were targeted in another wave of ethnic cleansing and other heinous acts. At the national level, Georgia has carried out investigations on an unprecedented scale. In particular, the Georgian investigation team interrogated over 7,000 witnesses, obtained over 200 forensic expert opinions and carried out crime-scene inspections in over 30 inhabited areas. Where the evidence was inaccessible owing to the Russian occupation of areas of Georgian territory — which were fenced off with artificial barriers, including razor wire — the crime scenes were examined through satellite imagery.

However, despite our continuous efforts, our ability to carry out additional necessary investigative measures in the Abkhazia and Tskhinvali regions at this stage is hampered by the illegal foreign occupation. In such circumstances, the request of Prosecutor Bensouda and the subsequent decision of the Pre-Trial Chamber dated 27 January to authorize proprio motu investigation into all crimes under the Rome Statute committed during the 2008 international armed conflict between the Russian Federation and Georgia have been recognized as an important step in acknowledging the ordeal suffered by the victims, as well as in combating impunity for the crimes committed between 1 July and 10 October 2008. Georgia further noted the Pre-Trial Chamber's decision to be legally sound and in line with international law.

We hope that, as Prosecutor Bensouda emphasized in February 2016, the investigation "will lead to establishing the truth and bringing justice to the victims ... who suffered so terribly during the conflict."

According to the Chamber,

> "an international armed conflict existed between Georgia and the Russian Federation between 1 July and 10 October 2008. The existence of such international armed conflict is rather uncontroversial as concerns the period of armed hostilities between Georgian and Russian armed forces between 8 and 12 August 2008 and the period of Russian occupation of parts of Georgian territory, in particular the 'buffer zone', until at least 10 October 2008. In addition, the Chamber considers, at this stage, that there is sufficient indication that the Russian Federation exercised overall control over the South Ossetian forces, meaning that also the period before the direct intervention of Russian forces may be seen as an international armed conflict".

The Chamber further notes that the consistent pattern of deliberate killing, beating and threatening civilians, detention, looting properties and systematic destruction of Georgian houses and other acts were committed "with a view to forcibly expelling ethnic Georgians from the territory of South Ossetia in furtherance of the overall objective to change the ethnic composition of the territory" and severing any remaining links with other parts of Georgia.

The Chamber also noted, based on the available information, that during the 2008 armed conflictthe crimes committed against ethnic Georgians

> "resulted in 51-113 killings, the destruction of over 5,000 dwellings and the forced displacement of 13,400-18,500 persons constituting, in the estimation of the Prosecutor, a 75 per cent decrease in the ethnically Georgian population in South Ossetia."

At this stage of cooperation with the Court, a special agreement on cooperation has been concluded between the Government of Georgia and the Office of the Prosecutor. The document establishes mechanisms to operationalize and enhance cooperation between the parties and to facilitate the expeditious conduct by the Office of the Prosecutor of the ICC of the investigations and prosecutions within the territory of Georgia. We are ready to continue cooperation with the Court in the framework of the above mentioned agreement.

Mr. Węckowicz (Poland): Poland aligns itself with the statement made by the observer of European Union. We would like to make the following remarks in our national capacity.

First, we would like to thank the International Criminal Court (ICC) for the twelfth annual report on its activities (see A/71/342). We thank President Fernández de Gurmendi for giving us a comprehensive briefing of the main issues concerning the ICC over the past year.

As highlighted in the report, the Court faced an unprecedented workload, with four trials taking place simultaneously. At the same time, the Office of the Prosecutor has been conducting investigations into a significant number of situations. Such a caseload is a clear indication of the importance of the Court, as well as of the worldwide demand for justice.

Poland recognizes the significant judicial developments during the reporting period, including the first case involving both command responsibility and the first conviction for sexual violence, and the case involving the first conviction for destroying religious monuments. Those rulings send a strong signal that such crimes will be prosecuted. Unfortunately, over the same period, new crimes of the same or similar nature and many other grave crimes are reported to have been committed.

There is a widespread expectation that such atrocious crimes cannot go unpunished. The ICC has a crucial role in upholding that expectation and in fulfilling the hopes of victims all over the world. However, we must remember that, in line with the principle of complementarity, the primary responsibility for preventing the most serious crimes rests with States parties.

Poland remains committed to the idea of ensuring that mass atrocities are addressed and further crimes are prevented, and continues to support the system of international criminal justice. As the ICC is the cornerstone of that system, we encourage all States to become parties to the Rome Statute. The broadest possible participation in the work of ICC should help to put an end to the most serious crimes under international law, no matter where they are committed.

We place a high value on the African States' participation in the discussion on the international system of justice. The fact that African countries make up the biggest United Nations regional group among the States parties to the Rome Statute shows their commitment to the fight against the most serious crimes of international law. In that context, however, it was with regret that we learned about the decision of some countries to withdraw from the Rome Statute. We hope that they will reconsider their position.

The continual enhancement of the Court's effectiveness is vital in the process of fighting impunity for the gravest crimes under international law. Cooperation with the Court is essential in order to suppress the grave crimes threatening peace, security and well-being of the world — that being the paramount consideration of the ICC and among the prime concerns of the Security Council and the United Nations at large.

Poland reiterates its support for the ICC as a court capable of instituting effective proceedings, thereby helping to maintain peace around the world, whose jurisdiction is widely recognized. Stability, along with the efficient use of resources, is crucial for dispensing justice expeditiously. The Court's new permanent premises should allow for progress in that respect. For the thousands of people across the globe who have suffered as a result of massive crimes, that building stands as a symbol and a promise of long-awaited justice. We have to do everything we can to make sure that their hopes are not dashed. We should spare no effort to continue supporting the Court in fulfilling its mandate and to protect its independence and impartiality.

Mr. Mohamed (Sudan) (*spoke in Arabic*): The Sudan would like to reaffirm its dedication to the principles underlying the United Nations. Those principles have as their objective the maintenance of international peace and security, the strengthening of sustainable development and the protection of human rights through international cooperation and dialogue in order to enhance cordiality in international relations

and contribute to the peaceful settlement of disputes. To that end, the Charter of the United Nations includes provisions that require respect for the sovereignty of States and non-interference in the internal affairs of States so as to ensure their political independence and territorial integrity. International justice must be viewed as a way to overcome economic, social and political differences and prevent the use of force in international relations.

The fight against impunity is a noble objective, which should not be the subject of differences of opinion. It is the concern, first and foremost, of national judicial bodies, within the extent of their legal powers. Attempts to politicize international justice are a platform for narrow interests and go against the objectives agreed to by the international community in order to achieve justice and succesfully fulfil the purposes and principles of the Charter. Such attempts violate international law and lead to increased tensions within the international community, instead of strengthening peace, as advocated by the Charter.

At a time when we are deliberating on the report of the International Criminal Court (see A/71/342), it is relevant to note that relations between the United Nations and the International Criminal Court (ICC) should take into account the independent nature of the two bodies and that there is no organic or structural link between the two entities. It is therefore very perturbing to see attempts by some States parties to the Rome Statute to prevail upon the General Assembly to usurp the prerogatives of the ICC, and vice versa.

My country has already expressed its position in that regard (see A/70/PV.95) and denounced the trends reflected in the draft resolution (A/70/L.47) on the ICC report. The sponsors of the draft resolution intend to propose a new paragraph containing vague interpretations that do not reflect the spirit of Vienna Conventions and Optional Protocols, and which we denounce. The Sudan consistently maintained this position during the informal consultations on the draft resolution. We would like to state that we uphold that position and to call upon States to agree to the existing provisions and to reject any vague interpretations.

The practices of the ICC clearly reflect its transformation into a tool for international disputes and a mechanism for politicization. The Court focuses exclusively on Africa and is targeting African leaders and symbols, something which has compelled African public opinion to describe the Court as being run by the big Powers, whose aim it is to target developing countries.

A number of questions demand answers. Where is the justice for the crimes committed in other parts of the world, and why is the ICC turning a blind eye to those atrocities? Is the ICC not a world court charged with combating impunity everywhere? Where are the guiding principles of neutrality, independence and integrity when it comes to dispensing justice? These are difficult issues for which we have sought answers from the ICC, but in vain. The conduct of the Court, however, provides us with a response. The ICC is focusing on one thing, and that is targeting Africans and African States.

The relationship between the ICC and the Security Council is a flagrant form of politicization. There should not be any link between the Security Council and the ICC. The Council, in fact, has the prerogative of bringing some countries before the Court while it spares others. This is a relationship that clearly reflects the existence of conflict between the interests of justice and political interests.

We are not the only ones to express our profound concern regarding the negative impact of voluntary contributions to the budget of the Court. These are contributions that harm the integrity and independence of the ICC. Nor are we the only ones to express our concern about the ambiguity that has been compromising the spirit of integrity embodied in the Charter of the United Nations. This is an ambiguity that has been described by an ICC official as being positive. This same ambiguity has led one a European Minister for Foreign Affairs to say that the jurisdiction of the Court cannot apply to his own State.

The actions of certain States that are using the ICC as an instrument for foreign policy are cause for concern. Such States are funding the ICC in the framework of the voluntary contribution system. Fifty per cent of the ICC annual budget is provided by such States, despite the fact that the Court is meant to be an independent body, including in terms of its finances.

This has given rise to a form of conflict between justice and peace. We certainly recall a remark by a former Prosecutor of the Court, who said that he had no interest in the efforts made by States to bring about peace. This was included in a legal report of the Court.

Today we are witnessing, particularly from the African perspective, structural obstacles within the Court, which has become a politicized body with double standards. We expect these obstacles and that politicization, which stain the reputation of the ICC, to be eliminated in the near future. We hope that the Court will be able to exercise its authority with full regard for the principle of transparency.

The Court has been reaping what it sows. Yet justice is a noble principle, which should not be subjected to political calculations. The International Court of Justice, with its record of peaceful settlement of disputes between States, has been in existence since 1946. Instead of imposing jurisdiction over countries, that Court, pursuant to Article 36 of its Statute, exercises its jurisdiction only when States parties refer cases to it. Those who favour the International Criminal Court express their concern and disappointment over the position taken by African States and other States throughout the world. The population of those countries is more than 60 per cent of world's population.

We pose the following question: In the 14 years since the adoption of the Rome Statute, what is the number of cases in which the ICC has taken a decision? Over 14 years, just three. Another question arises: What are the expenditures of the Court in order to deal with these matters? Well, here we are talking about millions of euros in expenditures. For one case, it can be $1.5 million. How can we call this justice? How can such a court combat impunity, I ask? Add to all of that the fact that the cases in which the Court has taken a decision have all been African cases.

The Secretary-General's reports (A/71/346 and A/71/349) should respect the relationship between the United Nations and the International Criminal Court without providing any vague explanations. My delegation expresses its concern over the interference of the international community in the prerogatives of the Secretary-General and its dictating to officials the manner in which the reports should be submitted and how they should carry out their obligations.

In conclusion, my country reaffirms its dedication to combating impunity and in favour of justice. As for the two bodies which are competent to deal with justice, we refuse any cooperation with the ICC, to whose Statute we are not a party. We have no obligation to that body pursuant to the Vienna Convention.

Mr. Ruda Santolaria (Peru) (*spoke in Spanish*): My delegation reaffirms Peru's commitment to the fight against international impunity and to the International Criminal Court (ICC), which, in accordance with the principle of complementarity, is the institution in the best position to prevent the most serious crimes from going unpunished. In that context, we welcome with interest the report of the International Criminal Court on its activities in the 2015-2016 judicial year (see A/71/342), which has just been submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and with paragraph 28 of resolution 70/264.

Likewise, Peru reiterates its recognition of the work of the Court, which is unfolding in strict compliance with the provisions of the Rome Statute and is not influenced by any other type of consideration. This is reflected in the unprecedented caseload currently on the ICC docket, which consists of 23 cases and 10 situations.

Among the judicial developments of the past year, my delegation wishes to emphasize that the Court has confirmed the first war crime indictment in relation to the destruction of historic monuments and buildings of a cultural character, among other things. In addition, we welcome the fact that the Court has moved into its own headquarters on a permanent basis.

Despite these advances, Peru recognizes that international criminal justice continues to be an aspiration, and that the International Criminal Court, as a young judicial institution on the international scene, needs greater support and a higher level of cooperation. Such support should come not only from States parties to the Rome Statute, but from all States Members of the United Nations. Likewise, we hope that we will have fruitful debates at the current session and that they will lead to a draft resolution that reflects the interests of the international community as a whole in the fight against international impunity.

Recognizing, on the other hand, that the Court can continue to improve its efficiency, Peru supports the adoption of measures of a practical nature, in conformity with the Rome Statute, to streamline procedures and improve the effectiveness of the Court, including the proposed amendments, provided that they do not undermine due process or the rights of the parties and the victims.

My delegation wishes to reiterate the need for further progress towards a comprehensive reform of the Security Council, particularly with regard to its working methods and the use of the veto. That is especially relevant given the imperative of preventing heinous crimes. When a State has been unable to meet its sovereign responsibility to protect its population, we have observed that the international community has been unable to adequately respond and the Security Council has been unable to meet its primary responsibility of maintaining international peace and security. Therefore, Peru supports the French initiative and the Accountability, Coherence and Transparency Group initiative on the code of conduct regarding Security Council action against genocide, crimes against humanity or war crimes.

As to the relationship between the ICC and the Security Council, my delegation wishes to emphasize that, for the first time, the Council, through its presidency, has responded to letters of the International Criminal Court on situations referred by that organ. Nevertheless, it is clear that much remains to be done with regard to strengthening this relationship.

In another vein, Peru — which belongs to the informal ministerial network for the International Criminal Court — attaches the greatest importance to the universality of the Rome Statute. Therefore, out of concern at recent developments that may affect such universality, we take this opportunity to call on States that have not yet done so to consider ratifying the Statute, preferably in its 2010 version.

Peru is a peaceful and stable country that has overcome serious internal conflicts in its history. That was possible thanks to the application of genuine accountability mechanisms, which are the best way of preventing the recurrence of serious human rights violations. We therefore encourage States' efforts in promoting the universality of the Rome Statute and strengthening national jurisdictions, which is also directly related to implementing the 2030 Agenda, specifically Sustainable Development Goal 16. That Goal is an important platform for better incorporating matters related to international justice into the framework of the rule of law and for accessing justice at the national and international levels.

Mrs. Pino Rivero (Cuba) (*spoke in Spanish*): The Cuban delegation takes note of the report (see A/71/342) of the International Criminal Court (ICC), which was presented by Ms. Silvia Fernández de Gurmendi, and it wishes to express before the General Assembly its commitment to the fight against impunity for crimes that affect the international community.

The current international state of affairs and the events that have taken place over the past few years clearly demonstrate the need for an autonomous international judicial body that can lead the fight against impunity for the most serious crimes. However, in the light of article 16 of the Rome Statute and the ample powers bestowed upon the Security Council in relation to the work of the International Criminal Court, the Court is far from being an independent institution. Apart from undermining the essence of the organ's jurisdiction, that issue violates the principle of independence of judicial bodies and the transparency and impartiality of the administration of justice. The referrals made to the Court by the Security Council confirm that negative trend, to which our country has referred on various occasions.

In the Security Council's referral processes international law is constantly violated and developing countries are attacked in the name of a supposed fight against impunity. It is for that reason that Cuba reiterates its support for the establishment of an international criminal jurisdiction that is impartial, non-selective, effective, fair, complementary to national justice systems and genuinely independent, and therefore free from subjugation to political interests that might erode its essence.

Unfortunately, issues related to those topics were not settled at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010, and the Court, as an international criminal jurisdiction, continues to be subjected to decisions of the Security Council that are unlawful, anti-democratic, abusive and in breach of international law. The Council continues to offer total impunity to those really responsible for crimes against the international community.

It is unfortunate that various Security Council resolutions stipulate that crimes committed by forces of to certain Powers members of the Security Council that are not parties to the Statute of Rome remain exempt from any investigation. Such standards are offensive to the international community; they are evidence of the political double standard with which the the Council operates, and they violate the principles governing the work of the International Criminal Court.

The Cuban delegation reiterates that the International Criminla Court cannot ignore international treaties and the principles of international law. The Court must respect the legal principle concerning the consent of a State to be bound by a treaty, as provided for in article 11 of part II of the Vienna Convention on the Law of Treaties of 23 May 1969.

Cuba wishes to reiterate its serious concern regarding the precedent set by the decisions of the Court to initiate judicial proceedings against nationals of States non-parties to the Rome Statute that have not even accepted the jurisdiction of the Court, pursuant to article 12 of its Statute.

As rightly noted in the report, the Rome Statute was never meant to replace national courts. We should not lose sight of the fact that the International Criminal Court must remain independent of the political organs of the United Nations and always function in a complementary way to national criminal courts.

For 50 years the people of Cuba have been victims of every form of aggression. Harassment and aggression have caused thousands of deaths and injuries in our country; hundreds of families have lost children, parents and siblings and there have been innumerable material, economic and financial losses. However, the definition of the crime of aggression arrived at during the Kampala Conference is far from encompassing some of the elements mentioned here. The definition of the crime of aggression should cover all forms of aggression that occur in international relations among States. It should not be limited to the use of armed force, but should also include aggression that affects sovereignty, territorial integrity and the political independence of States.

The International Criminal Court must report to the General Assembly on its activities in accordance with the Relationship Agreement. Although Cuba is not a party to the Criminal Court, it is willing to continue to actively participate in negotiation processes related to the Court, and especially on the draft resolution on the report of the International Criminal Court, which the General Assembly adopts every year, which must reflect the positions of both States parties and States non-parties to the Court.

Cuba reaffirms its will to fight impunity and maintains its commitment to international criminal justice, to the principles of transparency, independence and impartiality and to the unrestricted application of and respect for international law.

Ms. Yparraguirre (Philippines): My delegation would like to thank President Silvia Fernández de Gurmendi for her comprehensive report to the General Assembly.

The Philippines reaffirms its commitment to fighting impunity, to ensuring that perpetrators are held accountable for their crimes and to seeing that criminal justice is delivered. For peace and security would not be possible without justice. Without peace based on justice, the achievement of our 2030 Agenda for Sustainable Development will be compromised.

Ensuring that individuals are held accountable for international crimes has been a defining achievement of international law. That is the legacy of Nuremberg, after the Second World War, when it was decided that:

> "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."

Over the 70 years since the United Nations was founded in San Francisco, the prayer of our founding fathers and mothers remains a beacon of hope and commitment to save us — and those after us — from the scourge of war, which twice in their lifetime brought untold sorrow to all humankind.

Among its many achievements, the United Nations counts the rule of international law at the apex. In international criminal justice, the United Nations, through the International Law Commission and the initiative of Trinidad and Tobago in 1989, recognized the undeniable clamour for a permanent international criminal court, which culminated in the diplomatic conference and the adoption of the Rome Statute in 1998, its entry into force in 2002, and the election of the first bench of judges in 2003.

Just as Nuremberg pointed to individuals as authors of untold sorrow and injustice to multitudes, so must we recognize individuals who contribute to the collective work of delivering international justice, a vocation that is certainly difficult, sometimes thankless and possibly dangerous. Indeed, it is people individually, rather than collectively, who make justice work: members of the Secretariat across the United Nations family who are involved in the delivery of justice; the judges of the Court, the Prosecutor and their respective staffs; the

President of the Assembly of States Parties and his team and the lawyers, civil society advocates, witnesses and the victims — they are all unique individuals, but together they contribute in varying, but none the less valuable, degrees to the common goal of delivering international criminal justice.

Our goal is universality. We join the call for many more countries to ratify or accede to the Rome Statute, particularly from our Asia-Pacific region. We welcome the accession of El Salvador as the newest State party to the Rome Statute. States parties or not, we should help each other to protect human rights and build domestic capacities, including through assistance with human resource development such as the training of judges, prosecutors, the police and the military.

The five permanent members of the Security Council should refrain from using their veto in situations involving mass atrocity crimes that are under the jurisdiction of the International Criminal Court. For that reason, the Philippines supported the code of conduct regarding Security Council action against genocide, crimes against humanity or war crimes, elaborated in the context of the Accountability, Coherence and Transparency Group. We also call on the Security Council to take the necessary follow-up measures regarding situations that it has referred to the Court, so as to uphold the credibility of both institutions and ensure accountability.

The Philippines pays close attention to the increasingly heavy workload of the Court: its pending judicial proceedings, situations and preliminary examinations. It is our hope, however, that the International Criminal Court will continue to deliver on its mandate with the utmost dedication, impartiality, efficiency and integrity.

Mr. Wenaweser (Liechtenstein): We thank President Silvia Fernández de Gurmendi for the presentation of the report of the International Criminal Court (see A/71/342), which illustrates the impressive progress the Court has made in the reporting period.

We regret the recent decisions of South Africa and Burundi to leave the Court. South Africa in particular was instrumental in the drafting of the Rome Statute, and without its contribution, the Court would not have been established. We hope that its role as a leader in matters pertaining to human rights and justice will cause the Government to reconsider its decision.

The decisions to withdraw come at a moment when the Court has made significant progress in its judicial work and is regarded as a body that will dispense justice all around the world — from Africa, where the largest part of the International Criminal Court community has its home, to other parts of the world, including places like Syria, where the Court does not yet have jurisdiction. In our quest for universality, any country leaving the Court is naturally an unwelcome development.

At the same time, now is also a moment to pause and reflect on the historic significance of the institution and to rally around it in support. We are encouraged to see that policymakers, civil society and Governments all around the world have been doing just that, including this morning in the debate.

The Rome Statute is without any question one of the biggest achievements in the history of treaty-making and codification of international law. Even States that have not yet decided to join it turn to its provisions, in particular with respect to the definition of crimes. And with all the difficulties the Court has had to overcome, the Rome Statute itself has demonstrated its value and worth since its entry into force. In today's climate, we would probably have difficulty even setting up a process to negotiate a treaty for an independent international court with jurisdiction over the most serious crimes under international law; we certainly would not be able to agree on an outcome. The achievement reflected in the Rome Statute is unique, and today provides an opportunity to stand up for it.

The mere existence of the Court has given hope and voice to victims on every continent and will continue to do so. A court with the mandate to adjudicate the most serious crimes under international law and to do so with a policy of seeking accountability for those with the largest share of responsibility is bound to come under political pressure. And that is why we are asking those States that have joined it — almost two thirds of the United Nations membership — to stand up for it.

That is not to say that everything is perfect; discussions are needed to make the Court a better institution. We have consistently engaged in a critical analysis of its performance in a manner that is open and productive at the same time. Its proceedings can be, and must become, more efficient and more effective. We understand that others have their own concerns and we will continue engaging with them in that regard.

And certainly, at such a critical juncture, engagement is more important than ever. We are prepared for it, on the understanding that the integrity of the Rome Statute, and of its key provisions in particular, provides the context in which those discussions will take place.

Without universality, the reality remains that the ability of the International Criminal Court to provide justice for victims in many countries is subject to the political will of the Security Council — usually with no result. Nowhere has the Security Council's inability to provide accountability been more apparent than in Syria, where the most serious crimes under international law have been committed in a widespread and often systematic manner and are well documented. The proposal to refer the situation to the International Criminal Court was vetoed in 2014, and the Council has been silent ever since on the issue of accountability for crimes in Syria and has been paralysed with regard to all other aspects. We look forward to working with those that are willing to commit to making the Court a more universal institution, especially at this difficult juncture.

While business as usual is certainly not the order of the day, it is important that the work of the Court continue. And crucial developments have indeed taken place in the reporting period. Eight additional States have ratified the Kampala amendments on the crime of aggression, bringing the total number of ratifications to 32. That means that the threshold of 30 ratifications required for activation has been reached. States parties are therefore able to activate the jurisdiction of the Court over this crime in 2017. The decision will make the most serious forms of the illegal use of force justiciable before an international court for the first time since the Nuremberg trials, whose seventieth anniversary we are commemorating this year. The Court will thereby help to enforce a key provision of the Charter of the United Nations: the prohibition of the illegal use of force.

We are committed to working closely with all States parties — those that have ratified and those that have yet to do so — towards a smooth and simple activation decision in a year's time. We also continue our outreach to States to further increase the group of ratifiers and to engage with States that are interested in ratifying and implementing the Kampala amendments.

We encourage States that are interested in joining the ICC to ratify the Rome Statute in its 2010 version with the Kampala amendments, just as El Salvador has done during the reporting period.

Mr. Emilou (Cyprus): At the outset, I would like to express my warm appreciation to President Fernández de Gurmendi for her comprehensive presentation of the report covering the period from 1 August 2015 to 31 July 2016 (see A/71/342).

My delegation aligns itself with the statement delivered earlier by the observer of the European Union and would like to deliver additional remarks in its national capacity, focusing on the goal of universality of the Rome Statute.

It is our firm belief that the International Criminal Court (ICC) significantly contributes to the overall goal of the United Nations to work towards a more just and peaceful world, serving, in this way, the purposes and principles of the Charter of the United Nations.

As reflected in the report, the Court had another very full year in terms of judicial proceedings, investigations, preliminary examinations and institutional developments. The Court, as it continues at full speed, is currently seized of 23 cases and 10 situations in different parts of the world, and a larger number of crimes under the Rome Statute.

On 27 September, the Court delivered its judgment in the *Ahmad Al-Faqi Al-Mahdi* case. The Trial Chamber unanimously found Mr. Al-Mahdi guilty as a co-perpetrator of the war crime consisting in intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012. It was the first time that the Court dealt with the intentional destruction of cultural property in the context of a conflict, which is defined as a war crime under article 8 of the Rome Statute. In its reasoning, the Court reflected some of the longest-standing and most firmly established principles governing the conduct of hostilities. It echoed in substance the Regulations concerning the Laws and Customs of War on Land — the Hague Regulations, annexed to the 1907 Hague Convention — the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and the Protocols Additional to the Geneva Conventions of 1949. The cooperation and support of States and organizations such as UNESCO was crucial in bringing the *Al-Mahdi* case before the ICC.

The destruction of cultural heritage in any country constitutes a collective loss for humankind as a whole. Protecting cultural property benefits particularly the country and continent concerned. The recent ICC judgment therefore underlines that the international community remains vigilant in holding accountable those responsible for such war crimes.

That brings me to my next point, that cooperation is the cornerstone of the Court's effective functioning. We are pleased to note that during the reporting period, the United Nations continued to work closely with the Court to further strengthen cooperation and ensure the effective implementation of the Relationship Agreement. We moreover support the further strengthening of that relationship by means of practical steps, such as those set out in previous reports of the Court to the Assembly of States Parties on the status of ongoing cooperation between the International Criminal Court and the United Nations. Furthermore, cooperation with States parties and non-parties remains a key element in the wider effort.

Although, in the *Al-Mahdi* case the Court was able to address the destruction of cultural property in Mali, in other instances it has not been able to deal with similar situations that may have taken place or are still taking place. While the Court has a global mandate, it does not have universal participation. It may be recognized that the universal ratification of the Rome Statute remains the only realistic way of effectively addressing jurisdictional gaps, and consequently current challenges and shortcomings, and it is crucial to the application of the principle of equality before the law and for the effective deterrence of the most serious crimes under international law.

In that respect, we warmly welcome the accession of the El Salvador to the Rome Statute and take this opportunity to call upon all non-party States to ratify the Statute. The large number of ratifications shows a commitment by a majority of countries to ensure accountability for international crimes. During the reporting period, the Republic of Cyprus, along with Denmark —— as co-focal points of the Assembly of States Parties for achieving the universality and full implementation of the Rome Statute —— continued to promote the collective goal of achieving universal adherence to the Statute through various events and initiatives. We are currently in the process of preparing a social media campaign to promote the Rome Statute.

At this important juncture, let us not forget that before its creation, the ICC was thought by many to be a mission impossible. Ever since, and as illustrated by the *Al-Mahdi* decision, it has been tangibly contributing to the advancement of international justice. Yet right now the Court faces its biggest challenge to date. At this critical juncture and as the Court continues to be the indispensable court of last resort, it is more than ever incumbent on us, as Member States, to work tirelessly to maintain its deserved global recognition and further strengthen and support it.

We are deeply perturbed by the decision of South Africa, one of first signatories of the Statute, and that of Burundi to withdraw from the Rome Statute. We are similarly perturbed by the stated intention of the Gambia to withdraw. Although withdrawing from the Statute is a sovereign act of the State concerned, we strongly call on all three countries to reconsider and to share their concerns before the Assembly of States Parties, in accordance with the Statute. We call on all countries that have concerns to utilize the Assembly of States Parties as the appropriate forum for dialogue, while respecting the independence and impartiality of the Court. Together, we have a common interest in fighting impunity for grave crimes against humanity.

We are of the view that to abandon the Court is to assist in thwarting the reach of international justice. We all have a duty to history, present and future, as well as to the victims of heinous international crimes — a duty that we must fulfil by protecting and supporting the Court and helping it to overcome current challenges. In that context, my delegation would like to take this opportunity to reiterate its commitment to the Court and to reaffirm the unfailing support it has extended to the Court since its inception. We also extend an open and eager invitation to engage in a constructive dialogue with all Member States that have concerns.

I would like to conclude by mentioning another milestone development with respect to international criminal law. During the reporting period, the threshold of 30 ratifications of the Kampala amendments to the Rome Statute on the crime of aggression was reached. Currently, 32 States have ratified the amendment. Given that development, after 1 January 2017 States parties will be able to take a decision to activate the jurisdiction of the ICC over this specific crime, thereby completing the coherence of the Rome Statute as conceived in 1998. We look forward to even more ratifications in the coming months, as that will pave

the way for a more impressive activation as soon as possible after 1 January 2017.

We continue to act on all fronts in the hope that we will be able to consolidate and reinforce international criminal justice, rather than deconstruct the Rome Statute system.

The meeting rose at 1.10 p.m.